

REMARKS/ARGUMENTS

Claims 11-20 are pending in the application and stand rejected.

I. Summary of Office Action

The Office acknowledged that the rejection of claim 11 under §112, second paragraph, regarding the term “lateral excursions” has been withdrawn.

The Office indicated that the terminal disclaimer filed in this application relative to co-pending Serial No. 10/845,858 has been accepted, and that the double patenting rejection has been withdrawn.

Claims 11-20 have been rejected under §112, first paragraph, as failing to satisfy the written description requirement, based on the last amendment to claim 11 as having “substantially horizontal” lateral excursions.

Claim 11 has been rejected under §112, second paragraph, as being indefinite, based on the Office’s contention that use of the term “substantially horizontal lateral excursions” of the first fibers suggests that such first fibers are parallel to the turf backing.

Claims 11, 12, 19, and 20 are again rejected under 35 U.S.C. §102(b) as being anticipated by US 3,940,522 (Wessells).

Claims 13 and 15-17 are again rejected under 35 U.S.C. §103(a) as being unpatentable over Wessells in view of US 6,551,689 (Prevost).

Claims 14 and 18 are again rejected under 35 U.S.C. §103(a) as being unpatentable over Wessells.

II. Rejections based on 35 U.S.C. § 112, first paragraph

The Office has rejected claims 11-20, because claim 11 has been amended to refer to “substantially horizontal” lateral excursions. If the undersigned understands the Office’s position on this issue, the Office is saying that the disclosure as originally filed does not provide adequate support that the lateral excursions are *substantially horizontal*. (Section 5 of the final Office Action, last paragraph). The Office goes on to say that the term “substantially horizontal” encompasses a perpendicular orientation to a vertical axis of pile fibers (or oriented parallel to the turf backing, and that such amendment is based on new matter.

There is no new matter here. The Office is exactly correct in its understanding of what is meant by the applicant. As can be clearly shown in Figure 1, the lateral excursions of fibers 16 are noted by the length “x”. Those excursions are merely portions (hence the length “x”) of the entire fiber which extend substantially horizontally. Sometimes those excursions might be parallel to the turf backing. Sometimes those excursions might be slightly angled from being parallel to the turf backing. But, in either case, the point is that such fibers, with their lateral excursions, interact with one another to form a mesh for retaining infill 24 and provide resistance to migration of those particles (See page 3 of original specification). Of course, during the manufacturing phase of this product, those fibers 16 begin their path through the turf backing in a vertical orientation, because there are initially under tension when the needle is inserted. However, when they are cut, the tension on the cut fiber 16 is released and the fiber 16 returns to its curlicued/nonlinear state as shown in Figure 1 (See page 4 of the specification, lines 14-16). Even without the elaboration of the textual description, Figure 1 clearly shows these substantially horizontal lateral excursions as portions of fibers 16 identified by the length “x”.

Therefore, the applicant respectfully requests that this rejection be withdrawn, because the written specification and Figure 1 clearly support the phrase “substantially horizontal lateral excursions” in claim 11.

III. Rejections based on 35 U.S.C. § 112, second paragraph

Claim 11 was rejected under 35 U.S.C. § 112, second paragraph, as indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The Office pointed out that the phrase “substantially horizontal lateral excursions” is indefinite, because it suggests that the first fibers 16 are parallel to the turf backing. The Office further stated that it is unclear how the first fibers can be parallel to the backing, while extending upward therefrom (perpendicular thereto).

The undersigned wishes to emphasize that the claim language is referring only to “substantially horizontal lateral excursions”, and not to the entire length of each first fiber. Again, these excursions are portions of each fiber (as indicated by length “x” in Figure 1) that extend in that fashion. As mentioned above in Section II of these Remarks, the fibers do exit the turf backing in a vertical orientation, meaning that their bases extend from that turf backing. The base of the first fibers is not always vertical or perpendicular, but it may be in some cases. But, that is not what the language of claim 11 is referring to. Claim 11’s amended language only refers to those portions of the first fibers 16, i.e. the lateral excursions, which are “substantially horizontal”. It should be understandable why the first fibers under tension will curl or take on a nonlinear shape when that tension is released, creating portions or segments of the fiber (lateral excursions) which are oriented in a horizontal manner, or parallel to the turf backing.

For these reasons, it is respectfully urged that the term “substantially horizontal lateral excursions” is sufficiently clear, and that the rejection under 35 U.S.C. § 112, second paragraph, should be withdrawn.

IV. Rejections Based on 35 U.S.C. § 102(b)

Claims 11, 12, 19 and 20 were finally rejected under 35 U.S.C. § 102(b) as being anticipated by Wessells (US 3,940,522).

In making the above rejection, the Office states the following:

“...Wessells clearly discloses non-linear crimped fibers having “lateral excursions” (i.e. any lateral, horizontal, or transverse deviation of orientation of the fiber from the fiber’s central, vertical axis). Additionally, while the overall fiber of Wessells may be oriented vertically, it is asserted that at least some of the “lateral excursions” or crimps are oriented “substantially horizontal.”

First, the Wessells patent clearly shows vertically oriented fibers, with respect to both the main fibers 15 and the crimped fibers 16. For the Office to state that those fibers have “lateral excursions” is to dismiss the actual language of claim 11 (“substantially horizontal”) and its meaning as described in the specification and in the applicant’s responses. As asserted in the applicant’s prior response, Wessells actually teaches away from claim 11. The fibers press sideways to meet fibers from adjacent tufts to “support adjacent tufts perpendicular to the backing.” (col. 2, ll. 65-68 through col. 3, ll. 1-3). The crimped fibers do not “nest together” and instead push apart to form a dense mass and to give support to the grass-like fibers. (col. 5, ll. 36-40). Wessells teaches that the crimped fibers should not “draw down tightly.” (col. 5, ll. 44-51). In this section, Wessells further explains that it is preferable for the crimped fibers to remain in “somewhat extended condition” to resist a compressive load that is applied *axially* to the

direction of the fibers, i.e., in the vertical direction of the length of the fibers. Wessells also adds that "since compressive resilience is desired, *filaments whose cross-section has not been deformed severely by the crimping operation are particularly useful.*" [Emphasis added]. Thus, Wessells teaches a vertical orientation for the crimped fibers, which form a virtual column around the grass-like fibers. Accordingly, Figure 4 of Wessells depicts substantially vertical crimped fibers surrounding the grass-like fibers.

Second, the Office's statement that at least some of the "lateral excursions" or crimps in Wessells are oriented "substantially horizontal" is simply not apparent to the applicant at all. Where are they? The applicant respectfully requests, if this rejection is maintained, that the Office specifically identify which fibers of Wessells are "substantially horizontal". When a person of ordinary skill in the art looks at Figure 4 of Wessells, the most likely descriptive phrase that comes to mind is: vertical. The applicant simply does not see where any of the fibers in Wessells are substantially horizontal, but even if one were to stretch the imagination and see such fibers, it does not change the fact that Wessells' vertically oriented fibers are constructed in that manner, because they serve a completely different purpose than the first fibers of the applicant, all for the reasons expressed previously in this response and in the specification. In summary, Wessells' fibers are substantially vertical (Figure 4), and the applicant's fibers are substantially horizontal (Figure 1), and that is a huge distinction that renders claim 11 and its dependent claims both novel and nonobvious when compared to Wessells. Therefore, it is respectfully requested that the rejection be withdrawn.

V. Rejections Based on 35 U.S.C. § 103(a)

A. Wessells in view of Prevost

Claims 13 and 15-17 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Wessells (US 3,940,522), in view of Prevost (US 6,551,689).

The combination of Wessells in view of Prevost is not sufficient to support a prima facie rejection based on obviousness. Wessells and Prevost both relate to artificial turf products. Otherwise, they are substantially different from one another. Prevost is only relevant for the purpose of showing that infill particulate material may be added to an artificial turf. For the reasons given above, claim 11, as amended, is novel and nonobvious in comparison to Wessells. Claims 15-17 are dependent from claim 11 and include limitations further distinguishing the invention from the cited combination. Therefore, claims 15-17 are also nonobvious in comparison to the combination of Wessells in view of Prevost.

If the requirement of Wessells—that both the crimped and grass-like fibers are in a vertical orientation—were modified by the disclosure of Prevost, such an attempt would not result in a turf product resembling Applicant's. This is because the combination of Wessells with Prevost still only suggests fibers that extend upward from the backing in a vertical direction. Neither Wessells nor Prevost discloses fibers that extend upward from the backing in a substantially horizontal direction, i.e., the lateral excursions. Thus, it would not have been obvious to one skilled in the art of artificial turf to utilize crimped fibers that extend laterally. Consequently, the proposed combination of Wessells and Prevost does not disclose or suggest the invention as claimed in claims 11, as amended, and 15-17, and it is respectfully requested that the rejections be withdrawn.

The Office's statement in the rejection regarding the issue of "substantially horizontal lateral excursions" should be moot in view of the arguments presented previously herein.

B. Wessells

Claims 14 and 18 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Wessells.

Claims 14 and 18 are ultimately dependent upon claim 11. Both claims 14 and 18 should be allowable for the reasons expressed earlier in this response with respect to their novelty over the Wessells reference and are nonobvious over the cited combination.

VI. Conclusion; Request for Telephone Interview

For the reasons expressed herein, the applicant respectfully requests that a Notice of Allowance be issued in this case. If the Office believes that there remain any impediments to such a Notice of Allowance, the undersigned expressly requests that a telephone interview be scheduled and conducted before the Office takes further action on this application. The Office's accommodation of the interview request is greatly appreciated.

Respectfully submitted:

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